



MEMORANDUM

To: PLANNING COMMISSION

Date: March 13, 2007

From: COMMUNITY DEVELOPMENT DEPARTMENT

**Subject: AMENDMENT TO DEVELOPMENT SCHEDULES FOR MEASURE C
PROJECTS AND PROCEDURES FOR TRADING BUILDING
ALLOTMENTS IN DIFFERENT FISCAL YEARS BETWEEN MEASURE
C PROJECTS**

REQUEST

A request to review and approve the amended standard Measure C project developments to extend interim (soft) and hard deadline dates. Also requested is approval of procedures for trading different fiscal year building allotments between projects.

RECOMMENDATION

Motion to approve amended Standard Development Schedule Processing Deadline Dates for Measure C Projects and Procedures for Trading Building Allotments between Measure C Projects.

BACKGROUND

At the February 27, 2007 meeting, the Planning Commission reviewed a new Development Schedule Template that would apply to all subsequent RDCS projects. The new schedule reduces the lead time required for developers to obtain building permits and delay the filing deadline for Site and Architectural approval until after the Tentative Map had been approved. Under the current schedule a developer must pull the building permit nine months prior to the deadline to commence construction. This creates a hardship if the developer does not plan or is not able to begin construction until the Spring and must carry the cost of fees that must be paid prior to issuance of the permit.

It was the consensus of the Planning Commission that the following new Development Schedule Template would apply to the Fiscal Year 2008-09 building allotment and to subsequent first year fiscal year allotments:

FIRST YEAR FISCAL YEAR ALLOTMENT

- | | |
|---|------------|
| I. SUBDIVISION AND ZONING APPLICATIONS | |
| Applications Filed: | 06-30-2007 |
| II. SITE REVIEW APPLICATION | |
| Application Filed: | 9-30-2007 |
| III. FINAL MAP SUBMITTAL | |
| Application Filed: | 10-31-2007 |
| Map, Improvements Agreement and Bonds: | 01-31-2008 |
| IV. BUILDING PERMIT SUBMITTAL | |
| Submit plans to Building Division for plan check: | 08-15-2008 |
| V. BUILDING PERMITS | |
| Obtain Building Permits: | 03-31-2009 |
| Commence Construction: | 04-30-2009 |

To ensure a developer is able to commence construction by the June 30th RDCS deadline, this development schedule shall only apply where the first year allocation does not exceed 10-15 units and the project does not require a permit or approval by an outside agency such as the Santa Clara Valley Water District, Department of Fish and Game, or Army Corp of Engineers. For developers wishing to start a greater number of units in the first year, the above filing deadlines will be advanced so that the building permits are obtained by September 30, 2008.

The following schedule shall apply to development allotments awarded into the second and third fiscal year and to on-going RDCS projects. This example is for fiscal year 2009-10.

SUBSEQUENT YEAR ALLOTMENT

- | | |
|---|------------|
| I. SUBDIVISION AND ZONING APPLICATIONS * | |
| Applications Filed: | 06-30-2008 |
| II. SITE REVIEW APPLICATION * | |
| Application Filed: | 09-30-2008 |
| III. FINAL MAP SUBMITTAL* | |
| Application Filed: | 10-31-2008 |
| Map, Improvements Agreement and Bonds: | 01-31-2009 |
| IV. BUILDING PERMIT SUBMITTAL | |
| Submit plans to Building Division for plan check: | 01-31-2009 |

V. BUILDING PERMITS

Obtain Building Permits:	03-31-2009
Commence Construction:	04-30-2009
Completion & Occupancy Certificate:	07-01-2009**

* If required for projects awarded a building allotment in a subsequent RDCS competition.

** Units shall be completed no earlier than July 1, the start of the fiscal year and all units under the fiscal year allotment must be completed by June 30, 2010.

Transfer of Allotments between projects:

As discussed at the February 27 Planning Commission meeting, staff has identified 14 Measure C projects that will need additional time for project approvals or obtaining building permits. Measure F, approved by the voters in November 2006, allows applicants awarded a building allotment in the March 2006 Downtown Measure C competition, to advance the start and completion of their projects. Last year's competition awarded building allotments over three fiscal years through FY 2009-10. Measure F will allow these downtown projects to start and complete construction in the first year of the three year allotment. Staff proposes that for those March 2006 Downtown Competition projects that can start earlier, that the second and third fiscal year allotments from those projects (FY 08-09 & FY 09-10 allotments) be transferred to projects in next fiscal year allotments (FY 07-08) that would need more time to complete their processing and commence construction. The next fiscal year allotments from these projects would be transferred to the March 2006 competition projects that Measure F will allow to start early. The transfer of allotments is not limited to allotments from Downtown Measure F projects and could apply to other Measure C projects that need more time or could start sooner. This transfer of fiscal year allotments between projects will hopefully minimize the number of next fiscal year allotments that would need to be extended into a second or third fiscal year for projects that are behind schedule. Based on discussion at the February 27 meeting, staff has prepared the following limits on transfer of building allotments:

Transfer of Fiscal Year Building Allotments

1. The transfer of fiscal year building allotments does not apply to the current fiscal year allotment (FY 2006-07) or to building allotments that were extended from the prior fiscal year (FY 05-06) into the current fiscal year.
2. Transfer of building allotments must occur so that the receiving project has sufficient lead time to obtain the building permit and commence construction prior to the June 30 deadline.
3. The transfer must work as a trade between two developments. Transfer allotments cannot be sold to another development.
4. The transfer may apply to partially allocated and fully allocated developments.

5. Both on-going and recently allocated first time projects may transfer building allotments; however, new, first time project must have an approved vesting tentative map and approved development agreement, if the transfer of allotments occurs after December 31 of the fiscal year.

Prior to the March 27, 2007 Planning Commission meeting, staff will complete a survey of all RDCS project developers to determine which project are able to receive a fiscal year 2007-08 building allotment in trade for a fiscal year 2008-09 or 2009-10 allotment. The trade will be accomplished through the amendments to the project's Development Agreement and approval of an amended Development Schedule.

It is recommended the Planning Commission approve the above limits for the transfer of building allotments. Staff will incorporate the final wording into a policy format under the Chairperson's signature.

Attachment: Planning Commission Memorandum dated February 27, 2007

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MEMORANDUM

To: PLANNING COMMISSION

Date: February 27, 2007

From: COMMUNITY DEVELOPMENT DEPARTMENT

**Subject: AMENDMENT TO DEVELOPMENT SCHEDULES FOR MEASURE C
PROJECTS AND PROCEDURES FOR TRADING BUILDING
ALLOTMENTS IN DIFFERENT FISCAL YEARS BETWEEN MEASURE
C PROJECTS**

REQUEST

A request to review the current standard Measure C project developments to extend interim (soft) and hard deadline dates. Also requested is discussion on establishing procedures for trading different fiscal year building allotments between projects.

RECOMMENDATION

1. Approve a "template" for amending processing deadline dates for Measure C projects.
2. Provide direction on related matters as outlined in this report.

BACKGROUND

In October 2006, the Planning Commission adopted a policy allowing Development Schedules for Measure C projects to be approved by a Resolution of the Planning Commission. Previously, this development schedule was incorporated into the project's Residential Development Agreement as Exhibit "B." Approval of the Development Agreement is a legislative action requiring public hearings before the Planning Commission and City Council and adoption of an ordinance by the City Council. A developer may require an extension of time on one or more of the deadlines in the development schedule. To extend the deadlines, the developer must file an application to amend the Development Agreement and the amendment also requires subsequent hearings before the Commission and Council and adoption of another ordinance. Under the new policy these steps are no longer necessary other this one time amendment to the Development Agreement to remove the Exhibit B Development Schedule from the document and have the schedule readopted by Resolution. The Development Agreement would still have an Exhibit B Development Schedule with a hard deadline for commencement of construction no later than

June 30th of the fiscal year of the building allotment. Other deadlines, such as applications for subdivision map and site and architectural approvals and final map processing, would continue to be monitored on a quarterly basis through the separate development schedule approved by the Planning Commission.

Several developers have already applied to amend their project development schedules to request additional time to apply for or obtain building permits. Staff will take this opportunity to transfer each of those projects's Development Schedule out of the Development Agreement document. Staff is proposing to process these applications in one "batch" in a single hearing before the Planning Commission and City Council. The efficiency of processing all of the applications at once will save the City time and money. For this reasons we are offering all Measure C developers a reduced filing fee to amend their project's development schedule and remove the Development Schedule from the Development Agreement. The public hearings are tentatively scheduled for the March 13, 2007 Planning Commission and April 4, 2007 City Council meeting.

Development of a New Development Schedule "Template":

To assist in processing the above Development Schedule Amendments, staff is proposing that the Planning Commission approve a new Development Schedule "Template," that would apply to all Measure C projects. The new schedule would reduce the lead time required for developers to obtain building permits and delay the filing deadline for Site and Architectural approval until after the Tentative Map had been approved. Under the current schedule a developer must pull the building permit nine months prior to the deadline to commence construction. This creates a hardship if the developer does not plan to begin construction until the spring and must carry the cost of fees that must be paid prior to issuance of the permit. This is of particular concern to local developers because the Morgan Hill Unified School District has increased their schools facilities impact fee by 65 percent.

Staff is proposing the following as the new Development Schedule Template that would apply to the Fiscal Year 2008-09 building allotment as an example:

I.	SUBDIVISION AND ZONING APPLICATIONS	
	Applications Filed:	06-30-2007
II.	SITE REVIEW APPLICATION	
	Application Filed:	9-30-2007
III.	FINAL MAP SUBMITTAL	
	Map, Improvements Agreement and Bonds:	01-31-2008
IV.	BUILDING PERMIT SUBMITTAL	
	Submit plans to Building Division for plan check:	05-15-2008
V.	BUILDING PERMITS	
	Obtain Building Permits:	01-31-2009
	Commence Construction:	04-30-2009

Transfer of Allotments between projects:

Staff has identified 13 Measure C projects that will need additional time for project approvals or obtaining building permits (see attached project list). Measure F, approved by the voters in November 2006, allows applicants awarded a building allotment in the March 2006 Downtown Measure C competition, to advance the start and completion of their projects. Last year's competition awarded building allotments over three fiscal years through FY 2009-10. Measure F will allow these downtown projects to start and complete construction in the first year of the three year allotment. Staff has contacted all the Measure C developers to determine which projects may need adjustments in their start and completion schedules. Staff has also surveyed the Downtown project developers to determine if any of those projects are proposing to completed their projects sooner as provided for under Measure F. Staff proposes that for those March 2006 Downtown Competition projects that can start earlier, that the second and third fiscal year allotments from those projects (FY 08-09 & FY 09-10 allotments) be transferred to projects in next fiscal year allotments (FY 07-08) that would need more time to complete their processing and commence construction. The next fiscal year allotments from these projects would be transferred to the March 2006 competition projects that Measure F will allow to start early. The transfer of allotments is not limited to allotments from Downtown Measure F projects and could apply to other Measure C projects that need more time or could start sooner. This transfer of fiscal year allotments between projects will hopefully minimize the number of next fiscal year allotments that would need to be extended into a second or third fiscal year for projects that are behind schedule. Staff will prepare a transfer policy and procedures for the Planning Commission as part of this action. For discussion purposes, staff is proposing the following limits on transfer of building allotments:

1. The transfer policy does apply to the current fiscal year allotment (FY 2006-07) or to building allotments that were extended from the prior fiscal year (FY 05-06) into the current fiscal year.
2. Transfer of building allotments must occur so that the receiving project has sufficient lead time to obtain the building permit and commence construction prior to the June 30 deadline.
3. The transfer must work as a trade between to developments. Transfer allotments cannot be sold to another development.

To complete this policy, the Commission will need to address the following questions:

1. Does the transfer policy also apply to partially allocated developments or only to projects that are fully allocated?
2. Does the transfer policy only apply only to on-going projects or can recently allocated first time projects also transfer allotments?
3. Is it necessary to have all of the project entitlements in place (final map approval, building permit in plan check) to be eligible to receive a transfer allotment?

It is recommend the Planning Commission address each of the above questions and provide direction on the proposed policy and procedures for the transfer of building allotments.

Attachment: Letters from Richard Oliver dated June 23 and August 9, 2006
List of projects that are currently behind schedule

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PLANNING DEPT

AUG 11 2006

CITY OF MORGAN HILL

DIVIDEND HOMES, INC.
385 WOODVIEW AVE., SUITE 100
MORGAN HILL, CA 95037-2891
(408) 779-5900 FAX (408) 779-3840
"roliver@dividendhomes.com"

August 9, 2006

Planning Commission
c/o Planning Department
City of Morgan Hill
17555 Peak Ave.
Morgan Hill, CA 95037

Re: Measure C – Soft Deadlines

Dear Members of the Planning Commission:

I have attached hereto a copy of my letter, directed to the Planning Department, regarding the "Soft Deadlines" provided for in our Development Agreements under Measure C.

The Staff suggested that my request was a matter that would more appropriately addressed by the upcoming RDCS Subcommittee meeting. I therefore request that the matter be brought before that Subcommittee with a suggestion for a change that would provide latitude for the Community Development Director to have authority to consider and approve, upon appropriate showing, extending the "Soft Deadlines". This would avoid the time and cost of the applicants, the Staff and the Planning Commission and Council if such modifications of the "Soft Deadlines are justified. I am not suggesting that changes to "Hard Deadlines" (mandated in Measure C) be handled this way. I am also aware that there are number of other developers who share this same concern.

Please let me know if and when I might present my arguments to the Subcommittee.

Very truly yours,

DIVIDEND HOMES, INC.



By: Richard B. Oliver
President

Cc: Joan Moore, Planning Staff

Encl.

DIVIDEND HOMES, INC.
385 WOODVIEW AVE., SUITE 100
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(408) 779-5900 FAX (408) 779-3840
"roliver@dividendhomes.com"

June 23, 2006

Joan Moore
Planning Department
City of Morgan Hill
17555 Peak Ave.
Morgan Hill, CA 95037

Re: Measure C – Soft Deadlines

Dear Joan:

As the housing market and sales have begun to slow down, we have encountered some resistance from our lenders to have construction starts get too far out ahead of sales. I have reviewed all of our Morgan Hill Projects, and because we have been able to consistently commence construction ahead of schedule, I believe we are in good shape for timely commencement of construction; however, we do need to be cautious in our construction starts during the next few years.

In reviewing all of our Development Agreements, there is a disconnect between the soft deadline for obtaining building permits and the hard deadline for commencement of construction. As an example, in both Alicante and Mission Ranch (both ongoing projects) the soft deadline for obtaining building permits is between 9 and 10 months prior to the hard deadline for commencement of construction.

At this time I see no problem with the hard deadline for commencement of construction; however, since permits expire within 6 months, because permits are expensive and because school fees now must be paid prior to building permit issuance there is a real financial burden for having to meet the soft dead lines for permit issuance so far in advance.

Is there an administrative way that the soft deadline for permit issuance, especially for ongoing projects, be either extended or not enforced with any penalty?

Please advise at your convenience.

Very truly yours,

DIVIDEND HOMES, INC.

By: Richard B. Oliver
President

The following project phases are classified as being BEHIND SCHEDULE:

Tilton-Glenrock (MP-02-03) This project was scheduled to submit for building plan check on August 15, 2006 and obtain building permits for 20 units by September 30, 2006.

Peet-Lupine Investors (MP-02-12) This project was scheduled to obtain 12 building permits by September 30, 2006.

Peet-Lupine Investors (MC-04-25) This project was scheduled to obtain 18 building permits by August 15, 2006.

Mission View-Mission Ranch (MC-04-26) This project was scheduled to obtain 18 building permits by September 30, 2006.

Cochrane-Borello (MP-03-04) This project was scheduled to obtain 7 building permits by September 30, 2006.

Wright-Dividend Homes (MC-04-27) This project was scheduled to submit for building plan check by September 30, 2006.

Dividend Homes has filed Development Agreement Amendments for all of the above projects and filed a Development Agreement for E. Main Thrust (MC-04-19) which is not behind schedule. They are tentatively set for the Marcy 13, 2007 Planning Commission Agenda.

Jarvis-South Valley Developers (MC-04-22) This project was scheduled to submit for building plan check by January 2, 2007. The applicant has applied for a Development Agreement Amendment.

San Pedro-Ahmadi (MMC-04-06) This project was scheduled to obtain one building permit by September 30, 2006. The applicant has applied for a Development Agreement.

Ginger-Custom One (MMC-04-07) This project was scheduled to submit for Final Map on October 31, 2006 and building plan check on January 2, 2007. The applicant has applied for a Development Agreement Amendment.

E. Dunne-Kruse (MMC-04-10) The recommended schedule for 2006-07 projects has a Final Map submittal deadline of February 1, 2006. An initial study is being prepared. Once the study is complete the project will be set for Planning Commission review.

Depot-The Granary (MC-05-12) This project was scheduled to submit for Development Agreement and Subdivision by September 1, 2006.

Taylor-Murray (MMC-04-09) This project was scheduled to submit for Zoning Amendment, Subdivision and Development Agreement by September 1, 2006.

Monterey-Alcini (MC-05-05) This project was scheduled to submit for Development Agreement and Subdivision (if applicable) by September 1, 2006..

Native Dancer-Quail Meadows (MMP-03-01) This project is not behind schedule but has submitted a Development Agreement Amendment.

Jarvis-South County Housing (MC-05-02) This project is not behind schedule but has submitted a Development Agreement Amendment.

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